

**TRANSMITTAL****PATENT**

Application No.: 10/038,142
Filing Date: October 22, 2001
First Named Inventor: Tabatabai, et al.
Examiner's Name: Bengson, Greg C.
Art Unit: 2144
Attorney Docket No.: 080398.P433

- ☐ An Amendment After Final Action (37 CFR 1.116) is attached and applicant(s) request expedited action.
- ☒ Charge any fee not covered by any check submitted to Deposit Account No. 02-2666.
- ☒ Applicant(s) hereby request and authorize the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 CFR 1.16 and 1.17, for any concurrent or future reply to Deposit Account No. 02-2666.
- ☐ Applicant(s) claim small entity status (37 CFR 1.27).

ATTACHMENTS

- ☐ Preliminary Amendment
- ☐ Amendment/Response with respect to Office Action
- ☐ Amendment/Response After Final Action (37 CFR 1.116) (reminder: consider filing a Notice of Appeal)
- ☐ Notice of Appeal
- ☐ RCE (Request for Continued Examination)
- ☐ Supplemental Declaration
- ☐ Terminal Disclaimer (reminder: if executed by an attorney, the attorney must be properly of record)
- ☐ Information Disclosure Statement (IDS)
- ☐ Copies of IDS citations
- ☐ Petition for Extension of Time
- ☒ Fee Transmittal Document (that includes a fee calculation based on the type and number of claims)
- ☐ Cross-Reference to Related Application(s)
- ☐ Certified Copy of Priority Document
- ☒ Other: Appeal Brief Under 37C.F.R. §41.37
- ☐ Other:
- ☒ Check(s)
- ☒ Postcard (Return Receipt)

SUBMITTED BY:

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP

TYPED OR PRINTED NAME: Sheryl Sue Holloway

SIGNATURE:

REG. NO.: 37,850

DATE: Aug 30, 2007

ADDRESS: 1279 Oakmead Parkway

Sunnyvale, CA 94085-4040

TELEPHONE NO.: (408) 720-8300

CERTIFICATE OF MAILING BY FIRST CLASS MAIL (if applicable)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria Virginia 22313-1450 on 8.30.07

Date of Deposit

Carla Anyisia Nascimento

Name of Person Mailing Correspondence

8.30.07

Signature

Date

Express Mail Label No. (if applicable):

Send to: COMMISSIONER FOR PATENTS, P.O. Box 1450, Alexandria, Virginia 22313-1450

(10/14/03)

**FEE TRANSMITTAL FOR FY 2007**

Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

TOTAL AMOUNT OF PAYMENT (\$) 500.00

Complete if Known:

Application No. 10/038,142
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Examiner Name Bengzon, Greg C.
Art Unit 2144
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Applicant claims small entity status. See 37 CFR 1.27.

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify)**Deposit Account**Deposit Account Number : 02-2666

Deposit Account Name: _____

☒ The Director is Authorized to do the following with respect to the above-identified Deposit Account:☐ Charge fee(s) indicated below.☒ Charge any additional fee(s) or underpayment of fee(s) during the pendency of this application.☐ Charge fee(s) indicated below except for the filing fee☒ Credit any overpayments.☒ Any concurrent or future reply that requires a petition for extension of time should be treated as incorporating an appropriate petition for extension of time and all required fees should be charged.

Warning: Information on this form may become public. Credit card information should not be included on this form.
Provide credit card information and authorization on PTO-2038.

FEE CALCULATION**1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Large Entity		Small Entity		Fee Description		Fees Paid (\$)
Fee Code	Fee (\$)	Fee Code	Fee (\$)			
1011	300	2011	150	Utility application filing fee		
1111	500	2111	250	Utility search fee	1,000/500	
1311	200	2311	100	Utility examination fee		
1012	200	2012	100	Design application filing fee		
1112	100	2112	50	Design search fee	430/215	
1312	130	2312	65	Design examination fee		
1013	200	2013	100	Plant filing fee		
1113	300	2113	150	Plant search fee	660/330	
1313	160	2313	80	Plant examination fee		
1004	300	2004	150	Reissue filing fee		
1114	500	2114	250	Reissue search fee	1,400/700	
1314	600	2314	300	Reissue examination fee		
1005	200	2005	100	Provisional application filing fee		
SUBTOTAL (1)						\$ <u>0.00</u>

2. EXCESS CLAIM FEES

		<u>Extra Claims</u>	<u>Fee from</u> <u>below</u>	<u>Fees Paid (\$)</u>
Total Claims	_____ – 20 or HP = _____		X \$50.00	= \$0.00
HP = highest number of total claims paid for, if greater than 20				
Independent Claims	_____ – 3 or HP = _____		X \$200.00	= \$0.00
HP = highest number of independent claims paid for, if greater than 3				
Multiple Dependent Claims	_____			= _____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
<u>Fee</u>	<u>Fee</u>	<u>Fee</u>	<u>Fee</u>	
<u>Code</u>	<u>(\$)</u>	<u>Code</u>	<u>(\$)</u>	
1202	50	2202	25	Each claim over 20
1201	200	2201	100	Each independent claim over 3
1203	360	2203	180	Multiple dependent claims, if not paid
1204	200	2204	100	Reissue: each claim over 20 and more than in the original patent
1205	50	2205	25	Reissue: each independent claim more than in the original patent

SUBTOTAL (2) \$ 0.00

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<u>Total Sheets</u>	<u>Extra Sheets</u>	<u>Number of each add'l</u> <u>50 or fraction thereof</u>	<u>Fee from</u> <u>below</u>	<u>Fees paid (\$)</u>
_____	– 100 = _____	/ 50 = _____ (round up to whole number)	X \$250.00	_____

<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>
<u>Fee</u>	<u>Fee</u>	<u>Fee</u>	<u>Fee</u>	
<u>Code</u>	<u>(\$)</u>	<u>Code</u>	<u>(\$)</u>	
1081	250	2081	125	Utility
1082	250	2082	125	Design
1083	250	2083	125	Plant
1084	250	2084	125	Reissue

SUBTOTAL (3) \$ 0.00

FEE CALCULATION (continued)**4. OTHER FEE(S)**

				<u>Fees Paid (\$)</u>																																																																																																																																																																																																																																								
Non-English Specification, \$130 fee (no small entity discount)																																																																																																																																																																																																																																												
<table border="0"> <thead> <tr> <th colspan="2"><u>Large Entity</u></th> <th colspan="2"><u>Small Entity</u></th> <th rowspan="2"><u>Fee Description</u></th> <th rowspan="2"></th> </tr> <tr> <th><u>Fee Code</u></th> <th><u>Fee (\$)</u></th> <th><u>Fee Code</u></th> <th><u>Fee (\$)</u></th> </tr> </thead> <tbody> <tr> <td>1051</td> <td>130</td> <td>2051</td> <td>65</td> <td>Surcharge - late filing fee or oath</td> <td></td> </tr> <tr> <td>1052</td> <td>50</td> <td>2052</td> <td>25</td> <td>Surcharge - late provisional filing fee or cover sheet</td> <td></td> </tr> <tr> <td>1053</td> <td>130</td> <td>1053</td> <td>130</td> <td>Non-English specification</td> <td></td> </tr> <tr> <td>1812</td> <td>2,520</td> <td>1812</td> <td>2,520</td> <td>For filing a request for ex parte reexamination</td> <td></td> </tr> <tr> <td>1813</td> <td>8,800</td> <td>1813</td> <td>8,800</td> <td>Request for inter parties reexamination</td> <td></td> </tr> <tr> <td>1804</td> <td>920*</td> <td>1804</td> <td>920*</td> <td>Requesting publication of SIR prior to Examiner action</td> <td></td> </tr> <tr> <td>1805</td> <td>1,840*</td> <td>1805</td> <td>1,840*</td> <td>Requesting publication of SIR after Examiner action</td> <td></td> </tr> <tr> <td>1251</td> <td>120</td> <td>2251</td> <td>60</td> <td>Extension for reply within first month</td> <td></td> </tr> <tr> <td>1252</td> <td>450</td> <td>2252</td> <td>225</td> <td>Extension for reply within second month</td> <td></td> </tr> <tr> <td>1253</td> <td>1,020</td> <td>2253</td> <td>510</td> <td>Extension for reply within third month</td> <td></td> </tr> <tr> <td>1254</td> <td>1,590</td> <td>2254</td> <td>795</td> <td>Extension for reply within fourth month</td> <td></td> </tr> <tr> <td>1255</td> <td>2,160</td> <td>2255</td> <td>1,080</td> <td>Extension for reply within fifth month</td> <td></td> </tr> <tr> <td>1401</td> <td>500</td> <td>2401</td> <td>250</td> <td>Notice of Appeal</td> <td></td> </tr> <tr> <td>1402</td> <td>500</td> <td>2402</td> <td>250</td> <td>Filing a brief in support of an appeal</td> <td>\$500.00</td> </tr> <tr> <td>1403</td> <td>1,000</td> <td>2403</td> <td>500</td> <td>Request for oral hearing</td> <td></td> </tr> <tr> <td>1451</td> <td>1,510</td> <td>1451</td> <td>1,510</td> <td>Petition to institute a public use proceeding</td> <td></td> </tr> <tr> <td>1452</td> <td>500</td> <td>2452</td> <td>250</td> <td>Petition to revive - unavoidable</td> <td></td> </tr> <tr> <td>1453</td> <td>1,500</td> <td>2453</td> <td>750</td> <td>Petition to revive - unintentional</td> <td></td> </tr> <tr> <td>1501</td> <td>1,400</td> <td>2501</td> <td>700</td> <td>Utility issue fee (or reissue)</td> <td></td> </tr> <tr> <td>1502</td> <td>800</td> <td>2502</td> <td>400</td> <td>Design issue fee</td> <td></td> </tr> <tr> <td>1503</td> <td>1100</td> <td>2503</td> <td>550</td> <td>Plant issue fee</td> <td></td> </tr> <tr> <td>1462</td> <td>400</td> <td>1462</td> <td>400</td> <td>Petitions to the Commissioner (CFR 1.17(f) Group I)</td> <td></td> </tr> <tr> <td>1463</td> <td>200</td> <td>1463</td> <td>200</td> <td>Petitions to the Commissioner (CFR 1.17(g) Group II)</td> <td></td> </tr> <tr> <td>1464</td> <td>130</td> <td>1464</td> <td>130</td> <td>Petitions to the Commissioner (CFR 1.17(h) Group III)</td> <td></td> </tr> <tr> <td>1807</td> <td>50</td> <td>1807</td> <td>50</td> <td>Processing fee under 37 CFR 1.17(q)</td> <td></td> </tr> <tr> <td>1806</td> <td>180</td> <td>1806</td> <td>180</td> <td>Submission of Information Disclosure Stmt</td> <td></td> </tr> <tr> <td>8021</td> <td>40</td> <td>8021</td> <td>40</td> <td>Recording each patent assignment per property (times number of properties)</td> <td></td> </tr> <tr> <td>1809</td> <td>790</td> <td>2809</td> <td>395</td> <td>For filing a submission after final rejection (see 37 CFR 1.129(a))</td> <td></td> </tr> <tr> <td>1814</td> <td>130</td> <td>2814</td> <td>65</td> <td>Statutory Disclaimer</td> <td></td> </tr> <tr> <td>1810</td> <td>790</td> <td>2810</td> <td>395</td> <td>For each additional invention to be examined (see 37 CFR 1.129(b))</td> <td></td> </tr> <tr> <td>1801</td> <td>790</td> <td>2801</td> <td>395</td> <td>Request for Continued Examination (RCE)</td> <td></td> </tr> <tr> <td>1802</td> <td>900</td> <td>1802</td> <td>900</td> <td>Request for expedited examination of a design application</td> <td></td> </tr> <tr> <td>1504</td> <td>300</td> <td>1504</td> <td>300</td> <td>Publication fee for early, voluntary, or normal pub.</td> <td></td> </tr> <tr> <td>1505</td> <td>300</td> <td>1505</td> <td>300</td> <td>Publication fee for republication</td> <td></td> </tr> <tr> <td>1803</td> <td>130</td> <td>1803</td> <td>130</td> <td>Request for voluntary publication or republication</td> <td></td> </tr> <tr> <td>1808</td> <td>130</td> <td>1808</td> <td>130</td> <td>Processing fee under 37 CFR 1.17(i) (except provisionals)</td> <td></td> </tr> <tr> <td>1454</td> <td>1,370</td> <td>1454</td> <td>1,370</td> <td>Acceptance of unintentionally delayed claim for priority</td> <td></td> </tr> </tbody> </table>				<u>Large Entity</u>		<u>Small Entity</u>		<u>Fee Description</u>		<u>Fee Code</u>	<u>Fee (\$)</u>	<u>Fee Code</u>	<u>Fee (\$)</u>	1051	130	2051	65	Surcharge - late filing fee or oath		1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet		1053	130	1053	130	Non-English specification		1812	2,520	1812	2,520	For filing a request for ex parte reexamination		1813	8,800	1813	8,800	Request for inter parties reexamination		1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action		1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action		1251	120	2251	60	Extension for reply within first month		1252	450	2252	225	Extension for reply within second month		1253	1,020	2253	510	Extension for reply within third month		1254	1,590	2254	795	Extension for reply within fourth month		1255	2,160	2255	1,080	Extension for reply within fifth month		1401	500	2401	250	Notice of Appeal		1402	500	2402	250	Filing a brief in support of an appeal	\$500.00	1403	1,000	2403	500	Request for oral hearing		1451	1,510	1451	1,510	Petition to institute a public use proceeding		1452	500	2452	250	Petition to revive - unavoidable		1453	1,500	2453	750	Petition to revive - unintentional		1501	1,400	2501	700	Utility issue fee (or reissue)		1502	800	2502	400	Design issue fee		1503	1100	2503	550	Plant issue fee		1462	400	1462	400	Petitions to the Commissioner (CFR 1.17(f) Group I)		1463	200	1463	200	Petitions to the Commissioner (CFR 1.17(g) Group II)		1464	130	1464	130	Petitions to the Commissioner (CFR 1.17(h) Group III)		1807	50	1807	50	Processing fee under 37 CFR 1.17(q)		1806	180	1806	180	Submission of Information Disclosure Stmt		8021	40	8021	40	Recording each patent assignment per property (times number of properties)		1809	790	2809	395	For filing a submission after final rejection (see 37 CFR 1.129(a))		1814	130	2814	65	Statutory Disclaimer		1810	790	2810	395	For each additional invention to be examined (see 37 CFR 1.129(b))		1801	790	2801	395	Request for Continued Examination (RCE)		1802	900	1802	900	Request for expedited examination of a design application		1504	300	1504	300	Publication fee for early, voluntary, or normal pub.		1505	300	1505	300	Publication fee for republication		1803	130	1803	130	Request for voluntary publication or republication		1808	130	1808	130	Processing fee under 37 CFR 1.17(i) (except provisionals)		1454	1,370	1454	1,370	Acceptance of unintentionally delayed claim for priority		
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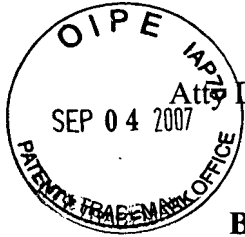
*Reduced by Basic Filing Fee Paid

SUBMITTED BY:Typed or Printed Name: Sheryl Sue Holloway

Signature: _____

Date: AUG. 30, 2007Reg. Number: 37,850Telephone Number: 408-720-8300

Send to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450



Atty Docket No. 80398.P433

Patent

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of:) Examiner: Bengzon, Greg C.
)
Tabatabai, et al.) Art Unit: 2144
)
Application No. 10/038,142) Confirmation No.: 7456
)
Filed: October 22, 2001)
)
For:)
DELIVERY OF MULTIMEDIA)
DESCRIPTORS USING)
ACCESS UNITS)
)

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

This is an appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner of Group 2144, dated February 21, 2007, in which claims 1-90 in the above-identified application were rejected in a final Office Action. This Appeal Brief is hereby submitted pursuant to 37 C.F.R. § 41.37(a).

I. REAL PARTY IN INTEREST

The real parties in interest are the co-assignees of the full interest in the invention, Sony Electronics Inc., Park Ridge, New Jersey and Sony Corporation, Tokyo, Japan.

II. RELATED APPEALS AND INTERFERENCES

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. STATUS OF THE CLAIMS

Claims 1-90 are pending in the application and were finally rejected in an Office Action mailed February 21, 2007. A Pre-Appeal Brief Request for Review was filed on May 18, 2007 to address the rejection of claims 1-90 under 35 U.S.C. § 112, second paragraph. A decision on the Pre-Appeal Brief upholding the § 112 rejection of claims 1-90 was mailed on July 30, 2006. Claims 1-90 are the subject of this appeal. A copy of Claims 1-90 as they stand on appeal are set forth in the Claims Appendix.

IV. STATUS OF AMENDMENTS

No amendments to the claims have been made after receipt of the Final Office Action mailed February 21, 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

All references to Appellant's specification provided herein refer to the specification as filed, not to the specification as published.

Appellant's invention as claimed in claims 1-90 uses access units to deliver updates for a multimedia description from an encoder 114 to a decoder 118 (Figure 1) as described in paragraphs 27-28 on pages 8-9 of the specification. The multimedia description 200 is divided into fragments 202 (Figure 2; paragraph 29 on page 9 and paragraph 35 on pages 10-11) and an access unit (300 in Figure 3) corresponds to one of the fragments (paragraph 36 on page 11). The access unit comprises a fragment update (304 in Figure 3), which in turn comprises a fragment update command (404 in Figure 4), as described in paragraphs 37-38 on pages 11-12. The encoder forms the access units from a multimedia description (paragraph 28 on pages 8-9). The access units are transmitted to the decoder, which executes the fragment update commands to reconstruct the multimedia description (paragraph 36 on pages 11 and paragraph 41 on pages 12-13).

Claim 1 is a method claim that claims forming an access unit corresponding to a fragment of a multimedia description and forming an encoded data stream from the access unit (paragraphs 28-29 on pages 8-9 and paragraph 36 on page 11). The access unit is claimed as being a network transmission data structure (paragraph 28 on pages 8-9) comprising a fragment update (paragraph 38 on pages 11-12). The fragment update is claimed as comprising a fragment update command that specifies a type of command for execution by a decoder to update the multimedia description (paragraphs 37-38 on pages 11-12).

Claim 6 is a method claim that depends from claim 1 through claim 4 and further claims that a fragment reference is in XPath (paragraph 59 on page 16).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

- I. Claims 1-90 stand rejected under 35 U.S.C. § 112, second paragraph as indefinite.
- II. Claims 1-5, 7-35, 37-65, 67-90 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Basso, et al., U.S. Patent 6,751,623 in view of Gallotta, et al., U.S. Patent 6,392,654.
- III. Claims 6, 36 and 66 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Basso and Gallotta, in combination with Srivastava, et al., U.S. Patent 6,549,922 and “W3C Issues XSL Transformations (XSLT) and XML Path Language (XPath) as Recommendations” (W3C Organization Press Release of November 16, 1999).

VII. ARGUMENTS

- I. Claims 1-90 are definite under 35 U.S.C. § 112, second paragraph.

Claims 1-90 stand or fall together. Claim 1 is the representative claim.

The Examiner rejected claim 1 in the final Office Action mailed February 21, 2007, asserting that “any special meaning assigned to a term must be sufficiently clear in the specification that any departure from common usage would be so understood by a person of experience in the field of the invention.”

In paragraph 28 of Appellant's originally filed specification, Appellant describes an access unit as a unit for transmitting a fragment of a description from an encoder to a decoder through a network:

In the following, "access unit" is used to refer to the smallest unit for transmitting a part of a description from an encoder to a decoder across a communication channel or inside a stream. . . When transmitting a description the encoder divides the description into fragments, encodes these as access units, and sends access units to the decoder where they are used to reconstruct the description.

In paragraphs 36-38, Appellant describes embodiments of the structure of an access unit, and illustrates an exemplary data structure for an access unit in Figures 3 and 4.

In paragraph 38, Appellant states that a command in an access unit "specifies the type of update to execute, for example to add, delete, or replace a fragment" in a description.

Therefore, Appellant respectfully submits that one of ordinary skill in the data processing arts would clearly understand the meanings of the terms "access unit" and "fragment update command" upon reading Appellant's specification and drawings.

Furthermore, the language of claim 1 includes the definition of the term "access unit" as a network transmission data structure, and includes the definition of the term "fragment update command" as specifying a type of command for execution by a decoder to update the multimedia description. Both definitions are consistent with the definitions of the terms within the specification.

Therefore, because one of ordinary skill would readily understand the meaning of the terms based on the definitions set forth in the claims, and that the definitions are consistent with the specification and drawings, claim 1 cannot be properly rejected under § 112, second paragraph as being indefinite.

II. Claims 1-5, 7-35, 37-65, 67-90 are patentable under 35 U.S.C. § 103(a) over the combination of Basso and Gallotta.

Claims 1-5, 7-35, 37-65, 67-90 stand or fall together. Claim 1 is the representative claim.

Basso proposes an intermediate data format for use with MPEG-4 data streams. Basso discloses access units that contain audio-visual data objects, such as a video frame

or an audio sample, or timing information for each object in a scene, referred to as scene description data. Basso further discloses that multiple access units are combined into segments to represent the audio-visual data.

Gallotta discloses a video graphics system that updates the status of the memory block in a memory block status register using a memory block status update command.

The Examiner asserts that Gallotta discloses the encoding and decoding of MPEG scene descriptions to provide the motivation for his combining of Basso and Gallotta. As one of skill in the art is well-aware, MPEG descriptions represent metadata for MPEG video. However, Gallotta only describes the video graphics system as processing MPEG video. There is no description at all in Gallotta that the video graphics system processes MPEG scene descriptions. Therefore, Gallotta provides no support for the Examiner's stated motivation. Thus, the combination of Basso and Gallotta is improper.

Furthermore, the Examiner is relying on Gallotta as disclosing Appellant's claimed fragment update command. However, Gallotta's update command updates a status register in a video graphics system with information about the status of a memory block. In contrast, Appellant's fragment update command specifies a type of command to update a multimedia description. Because a status register is not equivalent to a multimedia description, and because Gallotta does not teach or suggest any processing of multimedia descriptions, Gallotta does not disclose the fragment update command as claimed.

Because the Examiner withdrew his 35 U.S.C. § 102 rejection of claim 1 over Basso in response to Appellant's previous December 5, 2005 Appeal Brief, Basso cannot be properly interpreted as disclosing either Appellant's claimed access unit or claimed fragment update command. Thus, the combination of Basso and Gallotta cannot be properly interpreted as doing so.

Therefore, Appellant's invention as claimed in claim 1 is patentable under 35 U.S.C. § 103 over the combination of Basso and Gallotta.

III. Claims 6, 36 and 66 are patentable under 35 U.S.C. § 103(a) over the combination of Basso, Gallotta, Srivastava, and the W3C press release.

Claims 6, 35 and 66 stand or fall together. Claim 6 is the representative claim.

Srivastava discloses extracting metadata into a set of annotations and formatting the sets in a standardized form, such as XML. The W3C press release announces XML Path Language (XPath) as a World Wide Web Consortium Recommendation.

Because the combination of Basso and Gallotta does not disclose Appellant's claimed fragment update command, either Srivastava or the W3C press release must do so to have a proper *prima facie* case of obviousness for claim 6. However, neither Srivastava nor the W3C press release teach or suggest access units or a fragment update command as claimed by Appellant in claim 6.

Moreover, because the combination of Basso and Gallotta is improperly motivated, the further combination of Basso, Gallotta, Srivastava and the W3C press release is also improper.

Therefore, Appellant's invention as claimed in claim 6 is patentable 35 U.S.C. § 103(a) over the combination of Basso, Gallotta, Srivastava and the W3C press release.

VIII. CONCLUSION

Appellant's claims 1-90 do comply with 35 U.S.C. § 112, second paragraph, and Appellant's inventions as claimed in claims 1-90 are not rendered obvious under 35 U.S.C. § 103 by the cited art. Therefore, Appellant respectfully requests the Board reverse the rejections of claims 1-90 under 35 U.S.C. § 112, second paragraph, and 35 U.S.C. § 103, and direct the Examiner to enter a Notice of Allowance for claims 1-90.

Fee for Filing a Brief in Support of Appeal

Enclosed is a check in the amount of \$500.00 to cover the fee for filing a brief in support of an appeal as required under 37 C.F.R. §§ 1.17(c) and 41.37(a).


Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Appellant hereby requests such extension.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR
& ZAFMAN LLP

Dated: August 30, 2007



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**CLAIMS APPENDIX FOR
APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

1. (Previously presented) A computerized method comprising:

forming an access unit corresponding to a fragment of a multimedia description,
the access unit being a network transmission data structure comprising a fragment update,
the fragment update comprising a fragment update command that specifies a type of
command for execution by a decoder to update the multimedia description; and
forming an encoded data stream from the access unit.

2. (Original) The method of claim 1 wherein the fragment update command is selected
from the group consisting of add, delete, change, and reset commands.

3. (Previously presented) The method of claim 1 wherein the fragment update further
comprises a value.

4. (Previously presented) The method of claim 1 wherein the fragment update further
comprises a fragment reference wherein the fragment reference is a pointer to a fragment
to be used by the fragment update command.

5. (Previously presented) The method of claim 4 wherein the fragment reference is a
uniform resource identifier (URI).

6. (Previously presented) The method of claim 4 wherein the fragment reference is in XPath.
7. (Original) The method of claim 1 wherein the fragment update further comprises a payload.
8. (Original) The method of claim 4 wherein the fragment is in a first node.
9. (Original) The method of claim 8 wherein the fragment reference is in a second node and the first node and the second node are the same node.
10. (Previously presented) The method of claim 9 wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) multimedia description.
11. (Original) The method of claim 8 wherein the fragment reference is in a second node and the first node and the second node are different nodes.
12. (Previously presented) The method of claim 11 wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) multimedia description.
13. (Previously presented) The method of claim 1 further comprising:
determining if a multimedia description corresponding to the access unit has changed;

identifying a changed portion of the multimedia description and a corresponding access unit; and

forming the fragment update to correspond to the changed portion of the multimedia description.

14. (Original) The method of claim 1 further comprising:

associating the access unit with a partial description.

15. (Original) The method of claim 14 wherein the partial description comprises an instance of a descriptor.

16. (Original) The method of claim 1 further comprising:

associating the access unit with a reset point that contains a fragment that forms a complete description.

17. (Previously presented) The method of claim 4 wherein the fragment is stored on a different system than a system performing the method of claim 1.

18. (Original) The method of claim 1 wherein the access unit corresponds to a description, and further comprising:

transmitting the encoded data stream while the description is static.

19. (Original) The method of claim 1 wherein the access unit corresponds to a description, and further comprising:

transmitting the encoded data stream while the description is dynamic.

20. (Previously presented) The method of claim 1 further comprising:

transmitting a data for decoding to a decoder.

21. (Original) The method of claim 20 wherein the data include schemas defining a description data to be transmitted.

22. (Previously presented) A computerized method comprising:

receiving an access unit corresponding to a fragment of a multimedia description, the access unit being a network transmission data structure comprising a fragment update, wherein the fragment update comprises a command and a first fragment reference, and wherein the first fragment reference is a pointer to a first referenced fragment in a first node, and the command specifies a type of command for execution by a decoder to update the multimedia description.

23. (Original) The method of claim 22 wherein the first referenced fragment is a partial description.

24. (Original) The method of claim 22 further comprising:

comparing the first referenced fragment to a stored fragment; and

obtaining the stored fragment if the stored fragment is the first referenced fragment.

25. (Original) The method of claim 22 wherein the first fragment reference is in hyper-text transfer protocol (HTTP).

26. (Previously presented) The method of claim 22 wherein the access unit is a part of a Moving Picture Expert Group (MPEG) multimedia description.

27. (Original) The method of claim 22 further comprising:

identifying a second node which the command affects; and

identifying a second fragment reference which the first fragment reference points to, wherein the second fragment reference points to the first referenced fragment.

28. (Original) The method of claim 22 wherein the fragment update further comprises a payload.

29. (Original) The method of claim 27, wherein the second fragment reference points to a second referenced fragment within the first node, further comprising:

replacing the first fragment reference with a third fragment reference pointing to the second referenced fragment.

30. (Original) The method of claim 27, wherein the second fragment reference points to a second referenced fragment within the first node, further comprising:

replacing the first fragment reference with a third fragment reference pointing to a third referenced fragment within the second node.

31. (Previously presented) A computer-readable medium having executable instructions to cause a computer to perform a method comprising:

forming an access unit corresponding to a fragment of a multimedia description, the access unit being a network transmission data structure comprising a fragment update, the fragment update comprising a fragment update command that specifies a type of command for execution by a decoder to update the multimedia description; and forming an encoded data stream from the access unit.

32. (Previously Presented) The computer-readable medium of claim 31, wherein the fragment update command is selected from the group consisting of add, delete, change, and reset commands.

33. (Previously Presented) The computer-readable medium of claim 31, wherein the fragment update further comprises a value.

34. (Previously Presented) The computer-readable medium of claim 31, wherein the fragment update command further comprises a fragment reference, and wherein the fragment reference is a pointer to a fragment to be used by the fragment update command.

35. (Previously Presented) The computer-readable medium of claim 34, wherein the fragment reference is a uniform resource identifier (URI).

36. (Previously Presented) The computer-readable medium of claim 34, wherein the fragment reference is in XPath.

37. (Previously Presented) The computer-readable medium of claim 34, wherein the fragment is stored on a different computer.

38. (Previously Presented) The computer-readable medium of claim 34, wherein the fragment is in a first node.

39. (Previously Presented) The computer-readable medium of claim 38, wherein the fragment reference is in a second node and the first node and the second node are the same node.

40. (Previously presented) The computer-readable medium of claim 39, wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) multimedia description.

41. (Previously Presented) The computer-readable medium of claim 38, wherein the fragment reference is in a second node and the first node and the second node are different nodes.

42. (Previously presented) The computer-readable medium of claim 41, wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) multimedia description.

43. (Previously Presented) The computer-readable medium of claim 31, wherein the fragment update further comprises a payload.

44. (Previously Presented) The computer-readable medium of claim 31, wherein the method further comprises:

determining if a multimedia description corresponding to the access unit has changed;

identifying a changed portion of the multimedia description and a corresponding access unit; and

forming the fragment update to correspond to the changed portion of the multimedia description.

45. (Previously Presented) The computer-readable medium of claim 31, wherein the method further comprises:

associating the access unit with a partial description.

46. (Previously Presented) The computer-readable medium of claim 45, wherein the partial description comprises an instance of a descriptor.

47. (Previously Presented) The computer-readable medium of claim 31, wherein the method further comprises:

associating the access unit with a reset point that contains a fragment that forms a complete description.

48. (Previously Presented) The computer-readable medium of claim 31, wherein the access unit corresponds to a description, and the method further comprises:

transmitting the encoded data stream while the description is static.

49. (Previously Presented) The computer-readable medium of claim 31, wherein the access unit corresponds to a description, and the method further comprises:

transmitting the encoded data stream while the description is dynamic.

50. (Previously Presented) The computer-readable medium of claim 31, wherein the method further comprises:

transmitting a data for decoding to a decoder.

51. (Previously Presented) The computer-readable medium of claim 50, wherein the data include schemas defining a description data to be transmitted.

52. (Previously presented) A computer-readable medium having executable instruction to cause a computer to perform a method comprising:

receiving an access unit corresponding to a fragment of a multimedia description, the access unit being a network transmission data structure comprising a fragment update, wherein the fragment update comprises a command and a first fragment reference, and wherein the first fragment reference is a pointer to a first referenced fragment in a first node and the command specifies a type of command for execution by a decoder to update the multimedia description.

53. (Previously Presented) The computer-readable medium of claim 52, wherein the first referenced fragment is a partial description.

54. (Previously Presented) The computer-readable medium of claim 52, wherein the method further comprises:

comparing the first referenced fragment to a stored fragment; and

obtaining the stored fragment if the stored fragment is the first referenced fragment.

55. (Previously Presented) The computer-readable medium of claim 52, wherein the first fragment reference is in hyper-text transfer protocol (HTTP).

56. (Previously presented) The computer-readable medium of claim 52, wherein the access unit is a part of a Moving Picture Expert Group (MPEG) multimedia description.

57. (Previously Presented) The computer-readable medium of claim 52, wherein the method further comprises:

identifying a second node which the command affects; and
identifying a second fragment reference which the first fragment reference points to, wherein the second fragment reference points to the first referenced fragment.

58. (Previously Presented) The computer-readable medium of claim 57, wherein the second fragment reference points to a second referenced fragment within the first node, and the method further comprises:

replacing the first fragment reference with a third fragment reference pointing to the second referenced fragment.

59. (Previously Presented) The computer-readable medium of claim 57, wherein the second fragment reference points to a second referenced fragment within the first node, and the method further comprises:

replacing the first fragment reference with a third fragment reference pointing to a third referenced fragment within the second node.

60. (Previously Presented) The computer-readable medium of claim 52, wherein the fragment update further comprises a payload.

61. (Previously presented) A system comprising:

a processor coupled to a memory through a system bus; and
a encode process executed by the processor from the memory to cause the processor to form an access unit corresponding to a fragment of a multimedia description and form an

encoded data stream from the access unit, the access unit being a transmission data structure comprising a fragment update, and the fragment update comprising a fragment update command that specifies a type of command for execution by a decoder to update the multimedia description.

62. (Previously Presented) The system of claim 61, wherein the fragment update command is selected from the group consisting of add, delete, change, and reset commands.

63. (Previously Presented) The system of claim 61, wherein the fragment update further comprises a value.

64. (Previously Presented) The system of claim 61, wherein the fragment update further comprises a fragment reference wherein the fragment reference is a pointer to a fragment to be used by the fragment update command.

65. (Previously Presented) The system of claim 61, wherein the fragment reference is a uniform resource identifier (URI).

66. (Previously Presented) The system of claim 61, wherein the fragment reference is in XPath (extensible markup language path language).

67. (Previously Presented) The system of claim 64, wherein the fragment is stored on a different system.

68. (Previously Presented) The system of claim 64, wherein the fragment is in a first node.

69. (Previously Presented) The system of claim 68, wherein the fragment reference is in a second node and the first node and the second node are the same node.

70. (Previously presented) The system of claim 69, wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) multimedia description.

71. (Previously Presented) The system of claim 68, wherein the fragment reference is in a second node and the first node and the second node are different nodes.

72. (Previously presented) The system of claim 71, wherein the first node and the second node are in a Moving Picture Experts Group (MPEG) multimedia description.

73. (Previously Presented) The system of claim 61, wherein the fragment update further comprises a payload.

74. (Previously Presented) The system of claim 61, wherein the encode process further causes the processor to determine if a multimedia description corresponding to the access

unit has changed, identify a changed portion of the multimedia description and a corresponding access unit, and form the fragment update to correspond to the changed portion of the multimedia description.

75. (Previously Presented) The system of claim 61, wherein the encode process further causes the processor to associate the access unit with a partial description.

76. (Previously Presented) The system of claim 75, wherein the partial description comprises an instance of a descriptor.

77. (Previously Presented) The system of claim 61, wherein the encode process further causes the processor to associate the access unit with a reset point that contains a fragment that forms a complete description.

78. (Previously Presented) The system of claim 61, wherein the access unit corresponds to a description, and the encode process further causes the processor to transmit the encoded data stream through a network interface coupled to the processor through the system bus while the description is static.

79. (Previously Presented) The system of claim 61, wherein the access unit corresponds to a description, and the encode process further causes the processor to transmit the encoded data stream through a network interface coupled to the processor through the system bus while the description is dynamic.

80. (Previously Presented) The system of claim 61, wherein the encode process further causes the processor to transmit a data for decoding to a decode process through a network interface coupled to the processor through the system bus.

81. (Previously Presented) The system of claim 80, wherein the data include schemas defining a description data to be transmitted.

82. (Previously presented) A system comprising:

- a processor coupled to a memory through a system bus; and
- a decode process executed by the processor from the memory to cause the processor to receive an access unit corresponding to a fragment of a multimedia description, the access unit being a network transmission data structure comprising a fragment update, wherein the fragment update comprises a command and a first fragment reference, and wherein the first fragment reference is a pointer to a first referenced fragment in a first node, and the command specifies a type of command for execution by the processor to update the multimedia description.

83. (Previously Presented) The system of claim 82, wherein the first referenced fragment is a partial description.

84. (Previously Presented) The system of claim 82, wherein the decode process further causes the processor to compare the first referenced fragment to a stored fragment, and obtain the stored fragment if the stored fragment is the first referenced fragment.

85. (Previously Presented) The system of claim 82, wherein the first fragment reference is in hyper-text transfer protocol (HTTP).

86. (Previously presented) The system of claim 82, wherein the access unit is a part of a Moving Picture Expert Group (MPEG) multimedia description.

87. (Previously Presented) The system of claim 82, wherein the decode process further causes the processor to identify a second node which the command affects, and identify a second fragment reference which the first fragment reference points to, wherein the second fragment reference points to the first referenced fragment.

88. (Previously Presented) The system of claim 87, wherein the second fragment reference points to a second referenced fragment within the first node, and the decode process further causes the processor to replace the first fragment reference with a third fragment reference pointing to the second referenced fragment.

89. (Previously Presented) The system of claim 87, wherein the second fragment reference points to a second referenced fragment within the first node, and the decode

process further causes the processor to replace the first fragment reference with a third fragment reference pointing to a third referenced fragment within the second node.

90. (Previously Presented) The system of claim 82, wherein the fragment update further comprises a payload.

EVIDENCE APPENDIX FOR

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

NONE

**RELATED PROCEEDINGS APPENDIX FOR
APPEAL BRIEF UNDER 37 C.F.R. § 41.37**

NONE